

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WING SHING PRODUCTS (BVI), LTD.,

Plaintiff,

-against-

SUNBEAM PRODUCTS, INC. and
SIMATELEX MANUFACTORY CO., LTD.,

Defendants.
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06 Civ. 3522 (RJH)

ORDER

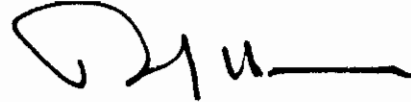
In *Egyptian Goddess, Inc. v. Swisa, Inc.*, 256 Fed. Appx. 357, 387–58 (Fed. Cir. 2007), the Federal Circuit granted a petition for rehearing en banc to consider several questions regarding the appropriate test for infringement of a design patent. Most notably, the court is considering whether to retain or modify the “point of novelty” test, the second inquiry in the existing two-part test for design patent infringement. *Id.* at 357. The Federal Circuit heard oral argument in June 2008. This decision is likely to have significant implications for the instant case, in which Plaintiff asserts infringement of its design patent, and in which Defendants have moved for summary judgment of non-infringement of Plaintiff’s patent.

Given these circumstances, the Court will stay this action pending a decision in *Egyptian Goddess*. For housekeeping purposes, the present motions are denied without prejudice. Defendants may renew their motions upon written application following issuance of the en banc opinion in *Egyptian Goddess*. Defendants’ letter should also include a joint proposal regarding supplemental briefing.

The clerk of the court is directed to mark defendants' motions [35, 46] for summary judgment as resolved.

SO ORDERED.

Dated: New York, New York
September 15, 2008

A handwritten signature in black ink, appearing to read 'R. J. Holwell', written over a horizontal line.

Richard J. Holwell
United States District Judge